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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,511	09/22/2003	Douglas A. Beigel	28864U	5823
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THE NATH LAW GROUP 112 South West Street Alexandria, VA 22314			EXAMINER UTAMA, ROBERT J	
			ART UNIT 3715	PAPER NUMBER
			MAIL DATE 07/22/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/665,511

Applicant(s)

BEIGEL, DOUGLAS A.

Examiner

ROBERT J. UTAMA

Art Unit

3715

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 18-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 18-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Status of the application

1. This office action vacates the previous office action mailed on 06/22/2010.
2. This office action is a response to the amendment and argument filed on 04/05/2010.

The current status of claims in the application is as follows: claims 1-13 and 18-27 are still pending and claims 14-17 have been cancelled.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. **Claims 1, 8, 11, 22 and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Singer US 6,557,009 and in view of COLA Accreditation Manual and further in view of Haunschild US 2004/0139053**

Claims 1, 11 and 22: The Singer reference database storing a plurality of evaluation question and plurality of assessment question (see col. 5:55-68); wherein the evaluation question ask for information usable to construct a profiles of at least one organization (see col. 9:20-30); wherein the assessment question ask for information usable to construct profiles of at least one organization (see col. 8:1-15); wherein subsets of said plurality of evaluation and

assessment question are combinable to form a plurality of assessment courses (see col. 10:33-40); a server connected to said database via communication network having a processor configured to cause a graphical user interface to be displayed to a network access device connected to said server via said communication network (see FIG 1 item 13, 14, 19); wherein said processor is further configured to present to an assessed user as an individual personnel of an organization seeking one compliance certification via said graphical user interface, a subset of evaluation comprised by at least one of said plurality of assessment course (see col. 9:20-30) wherein said processor is further configured to received responses from the assess user to said subset of evaluation question (see 10:33-40); the processor is further configured to construct at least one profile of the organization seeking said at least one compliance certification based on said responses to said subset of evaluation question (see FIG 3C); wherein said processor is further configured to present to the assessed user via said graphical user interface a subset of assessment question comprised by said at least one of said assessment courses and corresponding to said at least one profile of the organization seeking said compliance certification (see FIG 3F) and wherein said processor is further configured to receive responses from the assessed user to the subset of assessment question comprising said at least one of said plurality of assessment question (see col. 7:5-30).

The Singer reference does not provide a teaching where the profile comprises of substantive work-function related information at least one of the substantive work-function relation information selected from the group consisting of specialties. However, the COLA accreditation manual (see COLA page 100 (IV-42), 104 (IV-47)) specialties Microbiology, Mycobacteriology). Therefore, it would have been obvious to one of ordinary skilled in the art to include the feature where the profile comprises of substantive work-function related information at least one of the substantive work-function relation information selected from the group consisting of specialties, as taught by COLA, in order to better define the facilities to be inspected.

The Singer reference failed to provide a teaching where the response from the assess user to said subset of evaluation question controlling the display of the assessment question and additional evaluation and assessment question groups contained with group that evaluation question control, wherein only assessment question being applicable by the assessed user are presented. However, the Haunschild reference provides provide a teaching where the response from the assess user to said subset of evaluation question controlling the display of the assessment question and additional evaluation and assessment question groups contained with group that evaluation question control, wherein only assessment question being applicable by the assessed user are presented (see paragraph 21-23). Therefore, it would have been obvious to one of ordinary skilled in the art to include the feature of the response from the assess user to said subset of evaluation question controlling the display of the assessment question and other question groups contained with group that it control, wherein only assessment question being applicable by the assessed user are presented, as taught by Haunschild, in order to format the assessment that is relevant to the current assessment.

Claims 8 and 21: The Singer reference provides a teaching where the communication network is at lest a portion of the global, public internet (see FIG 1 item 13).

Claims 25 and 26: The Singer reference provides a teaching where the score the responses to said assessment question to dertermin whether the organization seeking said at least one compliance certification at least in part meets the requirement for said at least one compliance certification (see col. 9:60-10-5).

6. **Claims 2-7, 12-13, 19, 24 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Singer US 6,557,009, in view of COLA Accreditation Manual, in view of Haunschild US 2004/0139053 and further in view of Bua 2003/0167187.**

Claims 2 and 23: The Singer reference fail to produce a teaching of a first plurality of minimum scores stored in said database each corresponding to one the subset of evaluation

question comprised by each of said plurality of assessment course. However, the Bua reference provides a teaching of a first plurality of minimum scores stored in said database each corresponding to one the subset of evaluation question comprised by each of said plurality of assessment course (see paragraph 59 and Table 1 "substantial compliance ..."). Therefore, it would have been obvious to one of ordinary skilled in the art at the time of the invention to include the feature of a first plurality of minimum scores stored in said database each corresponding to one the subset of evaluation question comprised by each of said plurality of assessment course, as taught by Bua, in order to objectively judge the quality of the compliance (see paragraph 10-11).

Claim 3: The Singer reference fail to produce a teaching of a second plurality of minimum scores stored in said database each corresponding to one the subset of evaluation question comprised by each of said plurality of assessment course. However, the Bua reference provides a teaching of a second plurality of minimum scores stored in said database each corresponding to one the subset of evaluation question comprised by each of said plurality of assessment course (see paragraph 59 and Table 1 "No actual harm ..."). Therefore, it would have been obvious to one of ordinary skilled in the art at the time of the invention to include the feature of a second plurality of minimum scores stored in said database each corresponding to one the subset of evaluation question comprised by each of said plurality of assessment course, as taught by Bua, in order to objectively judge the quality of the compliance (see paragraph 10-11).

Claim 4: The Singer reference fails to provide a teaching of calculating a first score based on said response to the subset of plurality of evaluation question comprised by said at least one of said plurality of assessment course. The Bua reference provides a teaching of calculating a first score based on said response to the subset of plurality of evaluation question comprised by said at least one of said plurality of assessment course (see paragraph 52). Therefore, it would have been obvious to one of ordinary skilled in the art at the time of the invention to

include the feature of calculating a first score based on said response to the subset of plurality of evaluation question comprised by said at least one of said plurality of assessment course, as taught by Bua, in order to objectively judge the quality of the compliance (see paragraph 10-11).

Claim 5: The Singer reference fails to provide a teaching of calculating a second score based on said response to the subset of plurality of evaluation question comprised by said at least one of said plurality of assessment course. The Bua reference provides a teaching of calculating a second score based on said response to the subset of plurality of evaluation question comprised by said at least one of said plurality of assessment course (see paragraph 57). Therefore, it would have been obvious to one of ordinary skilled in the art at the time of the invention to include the feature of calculating a first score based on said response to the subset of plurality of evaluation question comprised by said at least one of said plurality of assessment course, as taught by Bua, in order to objectively judge the quality of the compliance (see paragraph 10-11).

Claims 6 and 7: The Singer reference fail to provide a teaching where the first and second score is equal or exceeds one of said first and second plurality of minimum scores corresponding to the subset of said plurality of assessment question comprised by said at least onf said plurality of assessment courses. However, the Bua reference provides a teaching of the first and second score is equal or exceeds one of said first and second plurality of minimum scores corresponding to the subset of said plurality of assessment question comprised by said at least onf said plurality of assessment courses (see paragraph 59). Therefore, it would have been obvious to one of ordinary skilled in the art to include the feature of the first and second score is equal or exceeds one of said first and second plurality of minimum scores corresponding to the subset of said plurality of assessment question comprised by said at least onf said plurality of assessment courses, as taught by Bua, in order to objectively judge the quality of the compliance (see paragraph 10-11).

Claim 12: The Singer reference fail to produce a teaching of a first plurality of minimum scores stored in said database each corresponding to one the subset of evaluation question comprised by each of said plurality of assessment course. However, the Bua reference provides a teaching of a first plurality of minimum scores stored in said database each corresponding to one the subset of evaluation question comprised by each of said plurality of assessment course (see paragraph 59 and Table 1 "substantial compliance ..."). Therefore, it would have been obvious to one of ordinary skilled in the art at the time of the invention to include the feature of a first plurality of minimum scores stored in said database each corresponding to one the subset of evaluation question comprised by each of said plurality of assessment course, as taught by Bua, in order to objectively judge the quality of the compliance (see paragraph 10-11).

The Singer reference fail to produce a teaching of a second plurality of minimum scores stored in said database each corresponding to one the subset of evaluation question comprised by each of said plurality of assessment course. However, the Bua reference provides a teaching of a second plurality of minimum scores stored in said database each corresponding to one the subset of evaluation question comprised by each of said plurality of assessment course (see paragraph 59 and Table 1 "No actual harm ..."). Therefore, it would have been obvious to one of ordinary skilled in the art at the time of the invention to include the feature of a second plurality of minimum scores stored in said database each corresponding to one the subset of evaluation question comprised by each of said plurality of assessment course, as taught by Bua, in order to objectively judge the quality of the compliance (see paragraph 10-11).

Claim 13: The Singer reference fails to provide a teaching of calculating a first score based on said response to the subset of plurality of evaluation question comprised by said at least one of said plurality of assessment course. The Bua reference provides a teaching of calculating a first score based on said response to the subset of plurality of evaluation question comprised by said at least one of said plurality of assessment course (see paragraph 52). Therefore, it

would have been obvious to one of ordinary skilled in the art at the time of the invention to include the feature of calculating a first score based on said response to the subset of plurality of evaluation question comprised by said at least one of said plurality of assessment course, as taught by Bua, in order to objectively judge the quality of the compliance (see paragraph 10-11).

The Singer reference fails to provide a teaching of calculating a second score based on said response to the subset of plurality of evaluation question comprised by said at least one of said plurality of assessment course. The Bua reference provides a teaching of calculating a second score based on said response to the subset of plurality of evaluation question comprised by said at least one of said plurality of assessment course (see paragraph 57). Therefore, it would have been obvious to one of ordinary skilled in the art at the time of the invention to include the feature of calculating a first score based on said response to the subset of plurality of evaluation question comprised by said at least one of said plurality of assessment course, as taught by Bua, in order to objectively judge the quality of the compliance (see paragraph 10-11).

The Singer reference fail to provide a teaching where the first and second score is equal or exceeds one of said first and second plurality of minimum scores corresponding to the subset of said plurality of assessment question comprised by said at least onf said plurality of assessment courses. However, the Bua reference provides a teaching of the first and second score is equal or exceeds one of said first and second plurality of minimum scores corresponding to the subset of said plurality of assessment question comprised by said at least onf said plurality of assessment courses (see paragraph 59). Therefore, it would have been obvious to one of ordinary skilled in the art to include the feature of the first and second score is equal or exceeds one of said first and second plurality of minimum scores corresponding to the subset of said plurality of assessment question comprised by said at least onf said plurality

of assessment courses, as taught by Bua, in order to objectively judge the quality of the compliance (see paragraph 10-11).

Claim 19: The Singer reference fails to wherein a weight is assigned to each of plurality of responses to the subset of said plurality of assessment question comprising said at least one of said plurality of assessment of course, said weight being relative to other of said plurality of response based on compliance with at least one goal of said certification. The Bua reference provides a teaching a weight is assigned to each of plurality of responses to the subset of said plurality of assessment question comprising said at least one of said plurality of assessment of course, said weight being relative to other of said plurality of response based on compliance with at least one goal of said certification (see paragraph 54). Therefore, it would have been obvious to one of ordinary skilled in the art a weight is assigned to each of plurality of responses to the subset of said plurality of assessment question comprising said at least one of said plurality of assessment of course, said weight being relative to other of said plurality of response based on compliance with at least one goal of said certification, as taught by Bua, in order to objectively judge the quality of the compliance (see paragraph 10-11).

Claim 24: The Singer reference fails to provide a teaching of calculating a score based on said response to the subset of plurality of evaluation question comprised by said at least one of said plurality of assessment course. The Bua reference provides a teaching of calculating a score based on said response to the subset of plurality of evaluation question comprised by said at least one of said plurality of assessment course (see paragraph 57). Therefore, it would have been obvious to one of ordinary skilled in the art at the time of the invention to include the feature of calculating a first score based on said response to the subset of plurality of evaluation question comprised by said at least one of said plurality of assessment course, as taught by Bua, in order to objectively judge the quality of the compliance (see paragraph 10-11).

The Singer reference fail to provide a teaching where the first and second score is equal or exceeds one of said first and second plurality of minimum scores corresponding to the subset of said plurality of assessment question comprised by said at least one said plurality of assessment courses. However, the Bua reference provides a teaching of the first and second score is equal or exceeds one of said first and second plurality of minimum scores corresponding to the subset of said plurality of assessment question comprised by said at least one said plurality of assessment courses (see paragraph 59). Therefore, it would have been obvious to one of ordinary skilled in the art to include the feature of the first and second score is equal or exceeds one of said first and second plurality of minimum scores corresponding to the subset of said plurality of assessment question comprised by said at least one said plurality of assessment courses, as taught by Bua, in order to objectively judge the quality of the compliance (see paragraph 10-11).

Claim 27: The Singer reference provides a teaching where the score the responses to said assessment question to determine whether the organization seeking said at least one compliance certification at least in part meets the requirement for said at least one compliance certification (see col. 9:60-10:5).

7. Claims 9-10 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Singer US 6,557,009 in view of COLA Accreditation Manual, in view of Haunschild US 2004/0139053

Claims 9-10, and 18: The Fletcher reference does not provide a teaching wherein each of the responses from the assessed user to the subset of plurality of assessment question comprising said at least one of the plurality courses is indicative of "Yes" and "No" and the Fletcher reference does not provide a teaching where each of the responses from the assessed user to the subset of plurality of assessment question comprising at least one of assessment course is indicative of one of the following "Yes", "No" and "Not Applicable". Instead, the Fletcher

reference provides a teaching wherein each of the responses from the assessed user to the subset of plurality of assessment question comprising said at least one of the plurality course in the form of multiple choice (see FIG. 6).

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to choose between the multiple choice as disclosed by Fletcher and "Yes" and "No" binary (and "Yes", "No" and N/A) choices as claimed by the applicant. One of ordinary skill in the art would have been expected the multiple choice form of Fletcher and the binary choice form of applicant's invention to perform equally well in receiving user's input. Therefore, it would have been prima facie obvious to modify Fletcher to obtain the invention as specified in claim 9-10, 15 and 18 because such modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Fletcher.

8. **Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Singer US 6,557,009, in view of COLA Accreditation Manual, in view of Haunschild US 2004/0139053 and further in view of Allison US 6,546,230.**

Claim 20: The Singer reference fails to provide a teaching of displaying a deficiency macro to said assessed user, via said graphical user interface, when one of said plurality of responses to the subset of evaluation/assessment question comprising at least one of said plurality of assessment courses is indicative of "No". However, the Allison reference provides a teaching of displaying a deficiency macro to said assessed user, via said graphical user interface, when one of said plurality of responses to the subset of evaluation/assessment question comprising at least one of said plurality of assessment courses is indicative of "No" (see col. 10:30-45 and FIG. 7). Therefore, it would have been obvious to include the feature of displaying a deficiency macro to said assessed user, via said graphical user interface, when one of said plurality of responses to the subset of evaluation/assessment question comprising at least one of said

plurality of assessment courses is indicative of "No", as taught by Allison, in order to inform the assessed user which area that the user need to concentrate in order to qualify for the certification (see col. 10:40-45).

Response to Arguments

9. Applicant's arguments filed 04/05/2010 have been fully considered but they are not persuasive.
10. With regards to applicant's response to the rejection of claims 11-13 and 18-21 under 35 U.S.C 101, the examiner found applicant's argument persuasive and withdraw the rejection.
11. Applicant's amendment and response are sufficient to overcome to rejection under 35 U.S.C 112, first and second paragraph, on claims 1-13 and 18-27.
12. With respect to applicant's argument on that the Singer reference do not provides a teaching of *"database storing a plurality of evaluation question and plurality of assessment question."* Respectfully, the Singer reference shows a teaching of an electronic database that stores questions to be presented to the user (see also col. 6:40-55). While, the Singer reference may contain different questions, it does not amount to a patentable difference. For claims 1, 11 and 22, the exact content of the question can be interpreted as non-functional descriptive material that does not change the relationship between the substrate (the computer) and the printed material (the questions). As such, patentable weight to the printed matter need not be given (see MPEP 2106.01).
13. With respect to applicant's argument that the Singer reference fails to discuss explicit evaluation/assessment question. The applicant also argues that the profile is superficial and not constructed from the evaluation/assessment question. The examiner respectfully disagrees. The Singer reference provides a teaching of a list question that specifies the type of the facilities (see col. 9:20-30 :address", "facility and equipment information"). The applicant

argues that such information is superficial, however, the claim language of claim 1, 8, 11, 22 and 25-26 do not specify the depth or the type of information in the evaluation survey.

14. The applicant also argues that the Singer reference merely produce a spreadsheet for data entry, but there is no interaction or enablement of interaction between the user, the server and the resulting spreadsheet in constructing a profile from the user's answers to evaluation questions. The examiner respectfully disagrees. While the Singer reference do allow brief period of offline interaction do not necessarily mean that the whole process takes place offline (see col. 4:40-50). Accordingly the examiner points also to interaction between the user, the server and the resulting spreadsheet in constructing a profile from the user's answers (see col. 9:5-17 and 4:20-30). The applicant also argues that the Singer reference lacks teaching for the limitation of "... information usable to determine if at least one organization meet the requirement for at least one compliance certification." The examiner respectfully disagrees. Firstly, the disputed limitation can be interpreted as an intended use limitation. Secondly, the Singer reference provides an explicit teaching where the information gathered previously are used to determine if at least one organization meet the requirement for at least one compliance certification (see col. 6:40-58)

15. Applicant's argument against the COLA NPL reference is considered to be moot in view of the new ground of rejection.

16. With regards to applicant's argument against the combination of Singer and Haunschild reference. The applicant argues that the Haunschild reference does not contain the feature of *"where the response from the assess user to said subset of evaluation question controlling the display of the assessment question and additional evaluation and assessment question groups contained with group that evaluation question control, wherein only assessment question being applicable by the assessed user are presented."* However, the applicant has not shown what is lacking in the Singer and Haunschild reference. As such, the examiner takes the position that

applicant's argument is unpersuasive and the rejection under Singer, Haunschild and COLA reference is still warranted.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT J. UTAMA whose telephone number is (571)272-1676. The examiner can normally be reached on 9-5:30 Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. J. U./
Examiner, Art Unit 3715

/XUAN M. THAI/
Supervisory Patent Examiner, Art Unit 3715